

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)
) No. 08 CR 50004-1
v.) Magistrate Judge P. Michael Mahoney
)
JEFF BARTLETT)

**UNITED STATES' OBJECTION TO MOTION TO RECONSIDER THE
DETENTION ORDER**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully requests this Court deny defendant's Motion To Reconsider the Detention Order, and in support of this objection states the following:

FACTS

Defendant was arrested on an outstanding arrest warrant on February 7, 2008. On February 13, 2008, this court conducted a detention hearing and entered an Order of Detention Pending Trial. During the detention hearing, the court received substantial information about defendant's finances and businesses. On February 19, 2008, defendant filed a Motion To Reconsider Order of Detention.

ARGUMENT

Defendant's motion to reconsider is based on arguments that were previously made to the court during the detention hearing. Specifically, the defendant's business finances, his willingness to submit to home confinement and his family situation were all factors the court

considered in ordering the defendant to be detained. Because the defendant's motion to reconsider fails to present new evidence that was unavailable at the time of the detention hearing, his motion should be denied.

A detention hearing may only be reopened "if the judicial officer finds that information exists that was not known to the movant at the time of the hearing," and that information "has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community." 18 U.S.C. § 3142(f). Courts interpret this provision strictly and have refused to reopen detention hearings if the proffered evidence was available at the time of the initial hearing. *See United States v. Dillon*, 938 F.2d 1412, 1415 (1st Cir. 1991)(per curiam)(affirming district court's refusal to reopen hearing where defendant sought to present affidavits attesting to his good character that were available at the time of the original hearing); *United States v. Hare*, 873 F.2d 796, 799 (5th Cir. 1989)(court affirmed refusal to reopen detention hearing where the proffered evidence was the testimony of defendant's family and friends and was available to him at the time of the original hearing).

Defendant's motion to reconsider should be denied. He had six days to prepare for the detention hearing in this case. He was interviewed by a Pretrial Services officer and provided her with extensive information about his personal and business finances. The information contained in his motion to reconsider was available to defendant at the time of the detention hearing. Moreover, all of the arguments raised in his motion to reconsider were

made to the court during the original detention hearing

For these reasons, the United States respectfully requests that the Court summarily deny the defendant's Motion To Reconsider the Order of Detention.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: _____ \S

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CERTIFICATE OF FILING AND SERVICE

I, MARK T. KARNER, certify that on February 21, 2008, I caused the foregoing pleading in this case: (1) to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois, Western Division; (2) a courtesy copy to be hand delivered to the court; and (3) a copy sent by facsimile:

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